

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DANIEL J. COREY,

Plaintiff,

v.

SNOHOMISH COUNTY

CORRECTIONS,

Defendant.

CASE NO. C14-1275-JCC

ORDER ADOPTING REPORT AND  
RECOMMENDATION

This matter comes before the Court on U.S. Magistrate Judge Brian A. Tsuchida's Report and Recommendation, (Dkt. No. 7), to which Plaintiff has raised no objection. The Court adopts Judge Tsuchida's recommendations and DISMISSES Plaintiff's action without prejudice for the following reasons.

**I. BACKGROUND**

On August 9, 2014, Snohomish inmate Mr. Corey filed a Complaint with the Court alleging violations of 42 U.S.C. § 1983. (Dkt. No. 1 at 1.) The Clerk of Court filed the case and informed Mr. Corey by mail that he had failed to meet the filing fee requirement by either paying \$400.00 or submitting an in forma pauperis application. (Dkt. No. 3 at 1.) The Clerk also asked Mr. Corey to provide a certified copy of his prison trust account statement showing transactions for the last six months. (Dkt. No. 3 at 1.) Mr. Corey was warned that failure to correct these

1 deficiencies before September 18, 2014 could lead to dismissal of his case. (Dkt. No. 3 at 1.)  
2 That deadline came and went without corrective action from Mr. Corey.

3 On September 22, 2014 the Court issued an Order to Show Cause, requiring compliance  
4 with the Clerk's requests before October 3, 2014. (Dkt. No. 5 at 1.) That Order was mailed to  
5 Mr. Corey's last known address at the Snohomish County Jail and returned to the Court marked  
6 "return to sender" and "released." (Dkt. No. 7 at 2.)

7 More than sixty days later, on December 1, 2014, Magistrate Judge Brian A. Tsuchida  
8 issued a Report and Recommendation recommending dismissal of Mr. Corey's Complaint  
9 without prejudice for failing to advise the Court of his current address. (Dkt. No. 7.) Mr. Corey  
10 neither filed any objection to the Report and Recommendation nor updated his address.

## 11 **II. DISCUSSION**

### 12 **A. Failure to Meet Filing Fee Requirement**

13 Prisoners filing Section 1983 complaints in the Western District must generally pay a  
14 \$400.00 filing fee. W.D. WASH., PRISON LITIGATION MANUAL 11 (2012). However, Local Rule  
15 3(b)(1) allows that fee to be waived if a prisoner "[c]omplete[s] the in forma pauperis application  
16 approved for use in this district for the specific type of case." W.D. Wash. Local CR 3(b)(1). *See*  
17 28 U.S.C. § 1915(a)(2) (1996) (Specifying application to "prisoner[s]"). Federal law further  
18 requires the submission of a certified copy of the prisoner's trust fund account statement for the  
19 last six months. 28 U.S.C. § 1915(a)(2) (1996).

### 20 **B. Failure to Keep Court Advised of Current Mailing Address**

21 Local Rule 41(b)(2) requires a "party proceeding pro se [to] keep the court and opposing  
22 parties advised as to his or her current mailing address." W.D. Wash. Local CR 41(b)(2). A court  
23 may dismiss an action without prejudice for failure to prosecute when "mail directed to a pro se  
24 plaintiff by the clerk is returned by the Postal Service . . . and if such plaintiff fails to notify the  
25 court and opposing parties within 60 days thereafter of his or her current mailing . . . address."

26 *Id.*

**C. Plaintiff's Action Warrants Dismissal for the Above Reasons**

Because Mr. Corey failed to advise the Court of his current address for more than sixty days, the Court may dismiss his action without prejudice for failure to prosecute pursuant to Local Rule 41(b)(2). In exercising this discretion, the Court further notes Mr. Corey's failure to meet his filing fee requirements under Local Rule 3(b). The Court thus dismisses this action without prejudice.

**III. ADOPTION OF THE REPORT AND RECOMMENDATION**

The Court, having considered the record and the Report and Recommendation of the Honorable Brian A. Tsuchida, hereby ORDERS:

- (1) The Report and Recommendation is adopted;
- (2) The matter is dismissed without prejudice; and
- (3) The Clerk shall mail a copy of this order to Plaintiff.

DATED this 15 day of January 2015.

A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE